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ALLEN, CAMERON J

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 5/21/2008 have been fully considered but they are not persuasive. The attorney argues that the prior art of record does not specifically address the creation of radicals by breaking down ozone and the use of a catalyst for increasing the amount of radicals. The examiner interprets these effects to be inherent.

“[T]he discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer.” *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999). Thus the claiming of a new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable. *In re Best*, 562 F.2d 1252, 1254, 195 USPO

There is no requirement that a person of ordinary skill in the art would have recognized the inherent disclosure *at the time of invention*, but only that the subject matter is in fact inherent in the prior art reference. *Schering Corp. v. Geneva Pharm. Inc.*, 339 F.3d

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dadd US 4,230,571.

Regarding claim 6, Dadd teaches an apparatus for treatment of liquid according to claim 1, comprising: *The examiner interprets the treatment of liquids according to claim 1 to be intended use of the apparatus.*

a container having an inlet and an outlet for the liquid to be treated, (Figure 2 Dadd)

UV generating light source capable of irradiating

an inside of the container, (Abstract Dadd)

air guidance means arranged inside the container,

connected to an air source; and (Abstract Dadd) (column 5 line 65) an inlet conduit for the liquid to be treated via a mixing means. (column 5 line 56-60)

Regarding claim 10, Dadd teaches the apparatus according to claim 6, wherein the mixing means comprises a throttle on the inlet, which throttle is capable of creating an ejector effect of the air/ozone into the flow of liquid. (Column 5 line 65-70) The examiner interprets a variable pump to have a throttle.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-7, and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dadd US 4,230,571 in further view of Kawai et al. US 4,863,608.

Regarding claim 1, Dadd teaches a method for treating liquids, comprising:

- irradiating a flow of air and a flow of [[the]] liquid to be treated at a same time in order to create ozone in both the air and the liquid, (Column 2 line 17-25)
- mixing the ozone-containing air with the liquid to be treated upstream of a liquid irradiating point, (Column 2 line 29-34)

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- irradiating the flow of liquid containing the in- mixed ozone in order to break down the ozone in the liquid for producing free radicals; and (Column 2 line 33-35) but does not teach exposing the liquid to at least one catalyst at the same time as the ozone is broken down for increasing an amount of free radicals. Kawai et al does teach of the use of photo catalyst for the use of water treatment. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dadd with the photo catalyst in Kawai for the expected and increases catalytic effects in the production of ultra pure water.

Regarding claim 3, Dadd in view of Kawai teach the method according to claim 1, wherein [[the]] UV radiation which is emitted for breaking down the ozone and contaminants has a wavelength of 180 nm - 400 nm. (Column 4 line 66) *The examiner interprets the 1,850 Angstroms to be 185 nm.*

Regarding claim 4, Dadd in view of Kawai teach the method according to claim 3, wherein the UV radiation which is emitted for breaking down the ozone has a wavelength of 254 nm. (Column 5 line 15) It would have been obvious to one of ordinary skill in the art at the time of the invention to discover the optimum value of operations, since it has been held that if the general conditions exist in the prior art it only take routine skill of the art to find the usable or workable range.

Regarding claim 5, Dadd in view of Kawai teach the method according to claim 1, wherein the mixing is obtained by an ejector effect into the flow of liquid. (Column 5 line 66) The examiner interprets a venturi to have the effect of an ejector.

Regarding claim 6, Dadd in view of Kawai disclose an apparatus for treatment of

liquid according to claim 1, comprising: *The examiner interprets the treatment of liquids according to claim 1 to be intended use of the apparatus.*

a container having an inlet and an outlet for the liquid to be treated, (Figure 2 Dadd)

UV generating light source capable of irradiating

an inside of the container, (Abstract Dadd)

air guidance means arranged inside the container,

connected to an air source; and (Abstract Dadd) (column 5 line 65)

an inlet conduit for the liquid to be treated via a mixing means. (column 5 line 56-60) but

does not teach exposing the liquid to at least one catalyst at the same time as the

ozone is broken down for increasing an amount of free radicals. Kawai et al does teach

of the use of photo catalyst for the use of water treatment. It would have been obvious

to one of ordinary skill in the art at the time of the invention to modify Dadd with the

photo catalyst in Kawai for the expected and increases catalytic effects in the production

of ultra pure water. It would have been obvious to one of ordinary skill in the art at the

time of the invention to locate the parts in any useful arrangement, since it has been

held that rearranging parts of an invention involves only routine skill in the art.

Regarding claim 10, Dadd teaches the apparatus according to claim 6, wherein the mixing means comprises a throttle on the inlet, which throttle is capable of creating an ejector effect of the air/ozone into the flow of liquid. (Column 5 line 65-70) The examiner interprets a variable pump to have a throttle.

Regarding claim 7, Dadd in view of Kawai teach the apparatus according to claim 6, wherein said air guidance means comprises a compartment divided from the inside of

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the container and that said UV generating light source is arranged in or adjacent said compartment but does not teach the separation is by a quartz glass. (Figure 1 Dadd) It would have been obvious to one of ordinary skill in the art at the time of the invention to use quartz, since it has been held to be within the skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 11, Dadd in view of Kawai teach the apparatus for treating liquids, and in particular water, according to claim 6, further including through-flowing means provided with inlets and outlets for the liquid, the UV generating light source being arranged in the through-flowing means, capable of generating ozone in the through-flowing liquid and at the same time break down the ozone in order to produce free radicals, but does not teach wherein mountable and demountable connection means are arranged to the inlet and outlet of the through-flowing means. It would have been obvious to one of ordinary skill in the art at the time of the invention to use mountable and demountable connection means, since it has been held that the provision of adjustability, where needed, involves routine skill in the art.

Regarding claim 12, Dadd in view of Kawai teach the apparatus according to claim 11, wherein the apparatus is arranged with at least two through-flowing means. (Figure 1 Dadd) *The examiner interprets the air to have a through flowing means and the water to also have a through flowing means.*

Regarding claim 13, Dadd in view of Kawai teach the apparatus according to claim 12, wherein said through-flowing means are arranged in series, whereby a first



through-flowing means is connected to an inlet pipe for liquid to be treated and that a second through-flowing means is connected to an outlet pipe for the treated liquid.

(Column 2 line 57-70 Dadd)

Regarding claim 14, Dadd in view of Kawai teach the apparatus according to claim 12, wherein at least two of the said through flowing means are connected in parallel to an inlet pipe for liquid to be treated and an outlet pipe for the treated liquid.

(Column 2 line 57-70 Dadd)

Regarding claim 15, Dadd in view of Kawai teach the apparatus according to claim 11, wherein the through-flowing means is an elongated pipe. Regarding claim 16, The apparatus according to claim 15-wherein the UV generating light source is arranged in one end of the elongated pipe. (Column 2 line 57-70 Dadd) *The examiner interprets a conduit to be an elongated pipe.*

Regarding claim 17, Dadd in view of Kawai teach the apparatus according to claim 11, but does not teach wherein ceramics *[[is]]* are arranged on the inside of the through-flowing means at least adjacent said UV generating light source. It would have been obvious to one of ordinary skill in the art at the time of the invention to use ceramics, since it has been held to be within the skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 18, Dadd in view of Kawai teach the apparatus according to claim 17, wherein the ceramics comprise titanium oxides. (Abstract Kawai et al)

Regarding claim 19, Dadd in view of Kawai teach the apparatus according to

claim 11, wherein the through-flowing means is arranged adjacent a water outlet for human use, or a shower head for human use. (Column 3 line 19-20) The examiner interprets a pool to be for human use.)

1. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dadd in view of Kawai as applied to claim 1 above, and further in view of Mancil (US 5,843,309).

Regarding claim 20, Dadd in view of Kawai teach the apparatus according to claim 19, but does not teach wherein the through-flowing means is arranged between a water faucet and the water outlet. Mancil does teach a through flowing means located near an outlet for human use like a shower head, or that the means is located between a water faucet and the water outlet, or between a warm water source. (Figure 2) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dadd in view of Kawai with Mancil. All of the references teach water treatment using ultraviolet light for purification. It is known in the art that water flowing from a faucet may need treatment. It would have been obvious to one of ordinary skill in the art at the time of the invention to know that a faucet is capable of delivering warm water.

Regarding claim 21, Dadd in view of Kawai teach the apparatus according to claim 19, wherein the through-flowing means is arranged between a warm water pipe and a faucet connected to the water outlet. Mancil does teach a through flowing means located near an outlet for human use like a shower head, or that the means is located between a water faucet and the water outlet, or between a warm water source. (Figure

2) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dadd in view of Kawai with Mancil. All of the references teach water treatment using ultraviolet light for purification. It is known in the art that water flowing from a faucet may need treatment. It would have been obvious to one of ordinary skill in the art at the time of the invention to know that a faucet is capable of delivering warm water.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMERON J. ALLEN whose telephone number is (571)270-3164. The examiner can normally be reached on M-Th 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJA

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